



Reprinted
February 3, 1999

HOUSE BILL No. 1249

DIGEST OF HB 1249 (Updated February 2, 1999 5:07 pm - DI 96)

Citations Affected: IC 5-14; IC 36-8; noncode.

Synopsis: Meet and confer bargaining. Requires a unit (a city, town, township, or county) to meet and confer with the recognized representative of the unit's public safety employees concerning wages, hours of employment, and other conditions of employment. Exempts units with a population of less than 5,000. Provides that a public safety employee may not engage in a strike. Provides that an agreement between an employer and an employee organization may not require a unit to engage in deficit financing. Provides that an agent designated by a unit to meet and confer with an employee representative is not a governing body for open door law purposes.

Effective: July 1, 1999.

Adams T, Frizzell, Young M

January 11, 1999, read first time and referred to Committee on Labor and Employment.
January 25, 1999, reported — Do Pass.
February 2, 1999, read second time, amended, ordered engrossed.

HB 1249—LS 6278/DI 96+



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1249

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-1.5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. For the purposes of
3 this chapter:

4 (a) "Public agency" means the following:

5 (1) Any board, commission, department, agency, authority, or
6 other entity, by whatever name designated, exercising a portion of
7 the executive, administrative, or legislative power of the state.

8 (2) Any county, township, school corporation, city, town, political
9 subdivision, or other entity, by whatever name designated,
10 exercising in a limited geographical area the executive,
11 administrative, or legislative power of the state or a delegated
12 local governmental power.

13 (3) Any entity which is subject to either:

14 (A) budget review by either the state board of tax
15 commissioners or the governing body of a county, city, town,
16 township, or school corporation; or

17 (B) audit by the state board of accounts.

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(4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.

(7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are:

(1) a public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business;

(2) the board, commission, council, or other body of a public agency which takes official action upon public business; or

(3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated.

An agent or agents appointed by a school corporation to conduct collective bargaining on behalf of that school corporation **or designated by a unit (as defined in IC 36-1-2-23) to meet and confer with a recognized representative under IC 36-8-20** does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include:

(1) any social or chance gathering not intended to avoid this chapter;

(2) any on-site inspection of any project or program;

(3) traveling to and attending meetings of organizations devoted to betterment of government; or

(4) a caucus.

(d) "Official action" means to:

(1) receive information;

(2) deliberate;

(3) make recommendations;

(4) establish policy;

(5) make decisions; or

(6) take final action.



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(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

SECTION 2. IC 36-8-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999] :

Chapter 20. Meet and Confer for Local Government Employers and Public Safety Employees

Sec. 1. It is the purpose of this chapter to promote full communication between employers and their public safety employees concerning questions of wages, hours of employment, and other terms and conditions of the employment of public safety employees. It is also the purpose of this chapter to improve relations between employers and public safety employees.

Sec. 2. (a) This chapter does not apply to an employer that has adopted, by ordinance, resolution, charter, amendment, or executive order, provisions and procedures that permit an employee to form, join, or assist an employee organization for the purpose of bargaining collectively.

(b) This chapter may not be construed to annul, modify, or limit a collective bargaining agreement or memorandum of understanding entered into between an employer and a representative before September 1, 1999.

(c) This chapter does not apply to a unit having a population



1 of less than five thousand (5,000).

2 Sec. 3. As used in this chapter, "employee" means a full-time
3 employee of a police or fire department. The term does not include
4 a person in an upper level policymaking position (as defined in
5 IC 36-8-1-12).

6 Sec. 4. As used in this chapter, "employee organization" means
7 an organization that includes employees as members and has a
8 primary purpose to represent the members of the organization on
9 issues concerning grievances, wages, rates of pay, hours of
10 employment, or conditions of employment.

11 Sec. 5. As used in this chapter, "employer" means a unit (as
12 defined in IC 36-1-2-23).

13 Sec. 6. As used in this chapter, "recognized representative"
14 means an employee organization selected under section 7 of this
15 chapter.

16 Sec. 7. (a) An employee organization is the recognized
17 representative of the employees of an employer if:

18 (1) before September 1, 1999, the employee organization was
19 recognized by the employer as the sole representative of the
20 employer's employees; or

21 (2) after August 31, 1999, the employee organization is
22 elected to be the sole representative under subsection (c).

23 (b) After August 31, 1999, an employer shall conduct an
24 election if thirty percent (30%) of the employees of the employer
25 sign a petition requesting an election to determine a recognized
26 representative. The election shall be conducted at least thirty (30)
27 but not more than sixty (60) days after the employer receives a
28 petition under this subsection.

29 (c) An employee organization is the sole recognized
30 representative of the employees of an employer if it receives more
31 than fifty percent (50%) of the votes cast in an election under
32 subsection (b).

33 Sec. 8. (a) All employees have the right to meet and freely
34 assemble to discuss their interests as employees and to form, join,
35 and assist an employee organization.

36 (b) The rights guaranteed under subsection (a) include the
37 right to solicit membership, to join employee organizations to
38 present their views, and to have dues deducted and submitted to
39 the recognized representative.

40 Sec. 9. This chapter is not intended to circumscribe or modify
41 the existing right of an employer to:

42 (1) direct the work of the employer's employees;



- (2) hire, promote, demote, transfer, assign, and retain employees in positions;
- (3) suspend, discharge, or otherwise discipline employees for just cause;
- (4) maintain the efficiency of governmental operations;
- (5) relieve employees from duties because of lack of work or for other legitimate reasons; or
- (6) take actions that may be necessary to carry out the mission of the employer in emergencies.

Sec. 10. Employers may not do the following:

- (1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed under this chapter.
- (2) Dominate, interfere with, or assist in the formation or administration of an employee organization, or contribute financial or other support to the employee organization. However, an employer may permit employees to meet and confer and represent the interests of bargaining during working hours without loss of time or pay.
- (3) Discriminate in regard to hiring or conditions of employment to encourage or discourage membership in an employee organization.
- (4) Discharge or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition or has given information, or testified under this chapter.
- (5) Refuse to meet and confer in good faith with recognized representatives.

Sec. 11. (a) An employee organization or the recognized representative of the employees of an employer that elects to meet and confer with an employer must notify the employer in writing that the employee organization intends to exercise its rights under this chapter.

(b) Except as provided by section 13 of this chapter, an employer who has received a written notice under subsection (a) shall meet and confer, at reasonable times, including meeting in advance of the budget making process, in good faith with the employee organization, or with the recognized representative if a recognized representative has been elected under this chapter, to discuss issues and proposals regarding wages, hours of employment, and other conditions and terms of employment.

(c) If an agreement is reached between the parties under subsection (b), the parties shall execute a written agreement



1 incorporating the terms of the agreement. At the request of either
2 party, an agreement must provide procedures for the settlement of
3 a question arising under the agreement.

4 Sec. 12. (a) As used in this section, "deficit financing" means
5 expenditures that exceed the money legally available to the
6 employer in any budget year.

7 (b) An employer may not enter into an agreement under
8 section 11 of this chapter that will place the employer in a position
9 of deficit financing. An agreement or collective bargaining contract
10 is voidable to the extent that an employer must engage in deficit
11 financing in order to comply with the terms of the contract.

12 Sec. 13. (a) An employer is not required to meet and confer
13 with an employee organization under this chapter unless the
14 employee organization has notified the employer in writing before
15 September 1, 2001, that the employee organization elects to
16 exercise its rights under this chapter.

17 (b) Notwithstanding subsection (a), after August 31, 2001, an
18 employer may elect to meet and confer and enter into an
19 agreement under section 11 of this chapter even if the employer did
20 not receive a written notice from an employee organization before
21 September 1, 2001.

22 (c) Notwithstanding any provision of this chapter, an employer
23 may elect to terminate its duty to meet and confer under this
24 chapter if:

25 (1) after meeting and conferring with an employee
26 organization under section 11 of this chapter, the employer
27 and the employee organization are unable to reach a written
28 agreement under this chapter; and

29 (2) more than fifty percent (50%) of the members of the
30 legislative body of the unit vote to terminate the employer's
31 duty to meet and confer under this chapter and written
32 notice of the action of the legislative body is given to the
33 employee organization.

34 Sec. 14. (a) An employee or recognized representative may not
35 participate in a strike against an employer.

36 (b) An employee engaging in a strike is subject to discharge by
37 the employer as provided in IC 36-8-3-4.

38 (c) A recognized representative that engages in or sanctions a
39 strike loses the right to represent the employees for one (1) year
40 from the date of the action.

41 (d) An employer may not pay an employee for days the
42 employee was engaged in a strike.



1 **Sec. 15. The term of any written agreement entered into under**
2 **this chapter may not exceed forty-eight (48) months.**

3 SECTION 3. [EFFECTIVE JULY 1, 1999] (a) **This act does not:**

4 **(1) apply to or abrogate a contract or an agreement in effect**
5 **on August 31, 1999; or**

6 **(2) preclude arbitration on a provision in the contract or**
7 **agreement.**

8 **(b) This SECTION expires July 1, 2002.**

9 SECTION 4. [EFFECTIVE JULY 1, 1999] **The provisions of this**
10 **act are severable in the manner provided by IC 1-1-1-8(b).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1249, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 8, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1249 be amended to read as follows:

Page 6, line 29, delete "at least sixty" and insert "**more than fifty**".

Page 6, line 29, delete "(60%)" and insert "**(50%)**".

(Reference is to HB 1249 as printed January 26, 1999.)

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